



Long Beach Container Terminal

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Mary D. Nichols, Chair
California Air Resources Board (CARB)
1001 I Street
Sacramento, CA 95814

Subject: Comments for Draft Regulation Order: California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93130-93130.20

Dear Chair Nichols and Members of the Board:

Thank you for the opportunity to provide comments on the proposed regulation order for California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 7.5, Sections 93130-93130.20.

Long Beach Container Terminal (LBCT) is one of the largest container stevedoring terminals (by containerized volume) in the Ports of Los Angeles and Long Beach and the West Coast of the United States. LBCT is one of the most environmentally clean terminals in the world with an all-electric transport system deployed with our ship-to-shore cranes, automated guided vehicles, automatic stacking cranes and rail-mounted gantry cranes that are infused in all aspects of our business including vessel, yard and rail operations. LBCT is committed to environmental sustainability, emission reduction and in many cases on the cutting edge of environmental stewardship in our industry. We do, however, have considerable concerns with sections of the proposed regulation.

I have notated the particular regulatory cite and the comment subsequently following:

93130.2 (b)(55) We recognize that the definition for ‘Ready to Work’ has been revised but still is missing information regarding labor. We would recommend that the following definition be considered and read: “Ready to Work” means that the vessel is tied to the berth, the gangway has been lowered with netting down, U.S. Coast Guard and U.S. Customs and Border Protection have cleared the vessel, and the labor is available, and the labor shift has started.

93130.9 (a)(2) It should not be the Terminal Operator’s responsibility to commission the vessels. This involves vessels involved in international trade, and nearly exclusively under the jurisdiction of a foreign government. This could only be undertaken by international treaty.

93130.9 (a)(3) It should not be the responsibility of the Terminal Operator to shift a vessel to shore power if the shore power was previously unavailable but becomes available at a berth. Consideration should be given if the vessel did not meet its schedule, who is responsible for the costs as a result of this including: labor, pilots, etc. This could have significant impacts to stevedoring contracts that have been in place for decades. The proposed language did not consider the complexity of vessel operations as well as placing the burden on the Terminal Operator when they cannot control vessel schedule.

93130.9 The proposed language has not considered numerous factors including: what if the reason the vessel cannot connect is a result of another (third) party (example: prior vessel at berth damaged infrastructure); what if there is a warranty issue with the shore power; what if the vessel cannot connect for as a result of compatibility, lack of commission, vessel issue. It should not be the ‘shared responsibility’ to arrange a CARB approved emission control strategy. The Vessel Operator is the holder of all vessel information including their design, ship power requirements, ship schematics and electrical infrastructure details, etc.

93130.9 (d) There would likely be weekly notices by terminals up and down the coast the way the current proposed language is written. Regardless, there should be an email that can be utilized to report exceptions. The timeline should be extended as well, since it may take time to gather all pertinent information. Also, this is another administrative burden that is being placed onto the Terminal Operator. The designated person likely handles numerous other responsibilities and could be on business travel, meetings, etc. A more reasonable timeframe would be to report within 30 days.

93130.9 (d)(2) Ships manage their power usage, asking the Terminal Operator to communicate with the vessel to determine their usage does not seem to be practical or applicable. In many cases meters are not located on the terminal, and in fact are under the control of the providing utility. Beginning and ending meter readings are not possible in these cases.

93130.9 (d)(2)(A) It is the vessel’s responsibility to commission. The Terminal Operator will coordinate, where applicable.

93130.9 (d)(2)(B) It is the Vessel Operators responsibility confirming that the strategy is CARB approved.

93130.9 (d)(2)(C)(F) What is the reasoning that CARB needs to know the meter reading? This appears as if CARB is expanding their jurisdiction. If terminal records the meter reading number, then wouldn’t that be sufficient? If there is a ‘need’ to know that particular meter number, then that can be provided. In many cases meters are not located on the terminal, and in fact are under the control of the providing utility. Beginning and ending meter readings are not possible in these cases.

93130.9 (d)(2)(D) 1 hour is not practical and will clearly become a safety issue. CARB has not considered the already CARB approved emission technology lift on/offshore power container. There have been significant capital expenditures to utilize this CARB approved technology and CARB needs to allow the proper amount of time to utilize this CARB approved technology.

93130.9 (d)(3)(e) The Vessel Operator is already reporting this information, and this creates a redundant and an additional administrative burden to the Terminal Operator to report the same information. Further, there could be slight differences on reporting information between the two entities thus causing and creating additional coordination and/or research if the information is not exactly consistent. There could also be occasions that a third-party operator is involved and now you have three entities reporting the same redundant and likely slightly different. We are having difficulty identifying the reason/ need to have this redundant reporting.

93130.9 (d)(3)(I) What is the reasoning that CARB needs to know the meter reading? This appears as if CARB is expanding their jurisdiction. If terminal records the meter reading number, then wouldn't that be sufficient? If there is a 'need' to know that particular meter number, then that can be provided. In many cases meters are not located on the terminal, and in fact are under the control of the providing utility. Beginning and ending meter readings are not possible in these cases.

93130.9 (f) How can the Terminal Operator be responsible for port owned land and infrastructure? If the work includes warranty-related repairs, is the manufacturer responsible? It surely can't be the Terminal Operator's responsibility. The Terminal Operator will report such issues but if there is construction or repair, there needs to be some flexibility. The reality is, there will be repairs, replacements, maintenance needed, and the rules need to account for that. Otherwise, this impacts commerce if you cannot have a vessel berthed when unforeseen or unavoidable circumstances present themselves.

93130.11(a)(1) Terminal volumes and vessel calls fluctuate. The TIE's should be based on current year and not previous year. The entire VIE/TIE proposal needs to be reconstructed. It simply does not match with the reality of industry and there are numerous considerations that need to be inserted into the program including what if CARB technology fails; other circumstances outside the control of a Terminal and Vessel Operator.

93130.11 There will need to be more % for TIE's issued the way the current proposed language is written. This still does not match with the reality of industry and there are numerous considerations that need to be inserted into the program including what if CARB technology fails; other circumstances outside the control of a Terminal and Vessel Operator.

93130.11 A TIE should not be utilized for uncontrollable events. This still does not match with the reality of industry and there are numerous considerations that need to be inserted into the program including what if CARB technology fails; other circumstances outside the control of a Terminal and Vessel Operator.

93130.11 (c) A TIE should be able to be carried over to the next year and so forth. This would provide an incentive for Terminal Operators and reward them for compliance. This still does not match with the reality of industry and there are numerous considerations that need to be inserted into the program including what if CARB technology fails; other circumstances outside the control of a Terminal and Vessel Operator.

93130.12 It is not the responsibility of the Terminal Operator to contract with a third party for an CARB approved emissions control equipment. This is not consistent with how current operations are handled and this needs to be reconsidered.

93130.14. This is another administrative burden. Further, it isn't practical for a terminal to develop a plan that they have no to limited control over. Carriers decide what will happen to their respective vessels. Carriers develop and control vessel schedules and these schedules change throughout the year. We do not see a value or reason to develop and maintain a plan. There will be regulations in place that will need to be followed, that would be the plan.

93130.15 There should not be a fine or 'pay for remediation' if equipment fails or is being repaired, or parts are on order. If equipment is in good order and proper maintenance has taken place and equipment fails, there should not be a penalty. Further, if there are required repairs or maintenance that is needed, that should not be penalized. This regulation is expecting perfection and that simply is not reality in any industry. What if the failure is due to a weather event or act of god? These should be identified as the exceptions allowed.

93130.15 What if the control strategy is delayed because of the third party or weather? Again, there shouldn't be penalties/ enforcement on operators for things that are out of their control.

93130.15 If the construction project is CARB approved then why would the operator have to 'pay for remediation'. What if the reason for the construction is a result of action/inaction of a third party? Again, there shouldn't be penalties/ enforcement on operators for things that are out of their control.

93130.15(f) Significant changes need to occur for the proposed language to balance compliance. The hourly fee for container vessel is \$1,900.00. This would be \$45,600 a day. This is an absurd penalty and needs serious reconsideration. There are many circumstances that may prevent or delay a vessel to 'plug in' or have an CARB-approved emission control device at the ready.

93130.13 Exceptions should be expanded to handle various other scenarios that have been previously mentioned in this document. There are not enough TIE's/ VIE's and the percentage needs to be increased. Responsibility should not be the Terminal Operator, as previously mentioned in this document. It simply does not match with the reality of industry and there are numerous considerations that need to be inserted into the program including what if CARB technology fails; other circumstances outside the control of a Terminal and Vessel Operator.

We have been very involved with previous public workshops, have been in communication with your staff and have provided previous comments on this proposal. A deeper analysis of our industry needs to occur to further understand our business and standard industry practices so that the regulations can provide value and keep a standard. The proposed regulations are setting up the industry for failure. The potential costs to attempt to comply and pay the remediation fees is exorbitant. We are very concerned on how this will impact safety, as well. With so much at stake, accidents will occur, and we are speaking up now to prevent this. We hope that CARB will take this letter seriously and spend the time to reevaluation what has been proposed. We understand that the goal is reduce emissions. The greatest impact that the proposed regulations will achieve is non-compliance, fines and jeopardizing safety. We respectfully ask that you consider our comments in your revision.

Best Regards,



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